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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,210	09/30/2003	Angelo Pacitto JR.	9892-000002	9942

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EXAMINER

DEVORE, PETER T

ART UNIT PAPER NUMBER

3751

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/675,210	<b>Applicant(s)</b> PACITTO ET AL	
	<b>Examiner</b> Peter T. deVore	<b>Art Unit</b> 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 48-104 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 48, 50-60, 66-77, 79-84, 86-91 and 93-104 is/are rejected.
- 7) ☒ Claim(s) 49, 61-65, 71, 78, 85 and 92 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 71 objected to because of the following informalities: "crating" should be "creating". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 74, 100, and 102 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 74, 100, and 102 each recite the limitation "said tubular body". There is insufficient antecedent basis for these limitations in the claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 48, 50-60, 66-73, 75-77, 79-84, 86-91, 93-99, 101, 103, and 104 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,330,893 (O'Connell).

Regarding claims 57 and 58, the O'Connell reference discloses an assembly comprising a filler tube 24 having a funnel portion/larger inlet 28, a tank 26, an outlet (end of filler tube 24 attached to tank 26), and a funnel insert 2/12 with a smaller diameter (portion that attaches to filler tube 24). See the offset axes of the filler tube inlet and outlet in Figure 1. Regarding claims 59 and 60, the vent tube 25 connects to the tank 26 and also to the filler tube via the funnel insert. Regarding claims 66-71, see Figure 4.

Regarding claim 83, the O'Connell reference discloses an assembly comprising a filler tube 24 having a larger inlet 28, an outlet (end of filler tube 24 attached to tank 26), and a funnel insert 2/12 with a first cylindrical section (portion that attaches to filler tube 24), a second cylindrical section (at end opposite the first cylindrical section), and a third cylindrical section 56. Regarding claim 84, see the tapered surface in Figure 4. Regarding claims 86-90, see Figure 4.

Regarding claim 91, the O'Connell reference discloses an assembly comprising a filler tube 24 having a larger inlet/nozzle retainer 28, an outlet (end of filler tube 24 attached to tank 26), and a funnel insert 2/12 with a first section (portion that attaches to filler tube 24), a second section (at end opposite the first cylindrical section), and a tapered surface (see Figure 4). Regarding claims 93-98, see Figure 4.

Regarding claim 103, the O'Connell reference discloses an assembly comprising a filler tube 24 having a first portion 28, a second portion (end of filler tube 24 attached to tank 26), a bend (see Figure 1), and a funnel insert 2/12. See the offset axes of the first portion and second portion in Figure 1.

Regarding claim 104, the O'Connell reference discloses an assembly comprising a filler tube 24 having a first portion/first end 28, a second portion (portion of the filler tube adjacent to the first portion but with a smaller diameter), and a second end (end of filler tube 24 attached to tank 26). See the offset axes of the first end and second end in Figure 1.

Regarding claims 48, 50-56, 72, 73, 75-77, 79-82, 99, 101, the claimed methods are disclosed in column 5, lines 5-45

### ***Allowable Subject Matter***

Claims 49, 61-65, 78, 85, and 92 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter T. deVore whose telephone number is (571) 272-4884. The examiner can normally be reached on Monday to Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pd Pd

*Justine Yu*  
JUSTINE R. YU  
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6/25/05